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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,207	06/13/2001	Wilhelmus Hendrikus Alfonsus Bruls	PHNL 000345	5320

24737 7590 11/30/2004

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

ROSARIO-VASQUEZ, DENNIS

ART UNIT PAPER NUMBER

2621

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/880,207

Applicant(s)

BRULS ET AL.

Examiner

Dennis Rosario-Vasquez

Art Unit

2621

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attached office action.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-16.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


DANIEL MIRIAM
PRIMARY EXAMINER

DETAILED ACTION

Advisory Action

1. The shortened statutory period for reply expires THREE MONTHS from the mailing date of the final rejection or as of the mailing date of this advisory action, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Any extension fee required pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for reply expires as set forth above.

2. The amendment filed 10/29/2004 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered because:

3. In response to the amendment filed 10/29/2004, page 8 states, "De Jonge fails to disclose "determining (11) statistics from a spatial spread of a set of original pixel values (P_t , M_i)" as is recited in claim 1."

However, De Jonge does teach the above limitation of "determining (11) statistics (fig. 1, num. 51 determines "statistical" features from col. 6, line 45 to col. 7, line 9.) from a spatial spread (Spread according to the specification in page 2, lines 9-12 is a difference as shown in figure 1, num. 14 of De Jonge and the spread/difference is inputted to numeral 51 of De Jonge which determines statistical features.) of a set of original pixel values (P_t , M_i) (In De Jonge, a spread/difference is obtained from original pixel values I_1 of figure 1.) ", because the words statistics, difference and spread are used interchangeably based on the specification in page 8, line 27 .

Art Unit: 2621

4. In response to the amendment filed 10/29/2004, page 9 states, "Auyeung fails to disclose that the "original pixel values (P_i, M_i) are weighted (13) under control ($12, \alpha$) of the statistics (11)," as is recited in the claims.", please note the test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. See In re Young, 927 F. 2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991) and In re Keller, 642 F. 2d 413, 455, 208 USPQ 871, 881 (CCPA 1981). Moreover, in evaluating such references it is proper to take into account not only the specific teachings of the references but also the inferences which one skilled in the art would reasonably be expected to draw therefrom. In re Preda, 401 F. 2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

5. The proposed amendment raises new issues that would require further consideration and/or search.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Rosario-Vasquez whose telephone number is 703-305-5431. The examiner can normally be reached on 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Boudreau can be reached on 703-305-4706. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DRS

Dennis Rosario-Vasquez
Unit 2621

RECEIVED
PRIMARY EXAMINER


DANIEL MIRIAM
PRIMARY EXAMINER